

REMARKS

The Examiner is thanked for the careful review of this application.

Claims 1-19 are pending in the present application. In the above amendments, claims 4-7, 10, 11, and 14-19 have been amended, and new claims 20-32 have been added. These amendments are fully supported throughout the specification. Therefore, after entry of the above amendments, claims 1-32 will be pending in this application.

The Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Rejection under 35 USC § 112, Second Paragraph

The Office has rejected claims 1, 7, 11 and 19 under 35 USC § 112, second paragraph, as being indefinite with respect to the scope of the claimed subject matter. The Applicants respectfully traverse this rejection.

Nonetheless, the Applicants have amended the claims to recite “billing-related metadata,” as is supported throughout the specification. *See, e.g.*, Specification, page 9, paragraphs 0039 and 0040, and paragraph 0033, lines 6-11. In some cases, the “billing-related metadata” may be proposed by one party or another in a negotiation, while in other cases the “billing-related metadata” may be agreed-to by each party as a result of the negotiation. Further, the “presenting” language referenced by the Office in the rejection has been canceled, without prejudice. Therefore, the present claims set forth the subject matter that the Applicants regard as their invention.

Thus, based on these remarks, the Applicants respectfully request that the Office withdraw the rejection of claims 1, 7, 11 and 19 under 35 USC § 112, second paragraph.

Rejection under 35 USC § 102(e)

The Office has rejected claims 1-19 under 35 USC § 102(e) as being anticipated by Hori (US Patent No. 6,792,280). The Applicants respectfully traverse this rejection, as Hori does not disclose or suggest each and every aspect of the recited subject matter.

For example, with regard to independent claims 1, 7 and 11, Hori does not disclose or suggest a method, a system, or a computer-readable medium for respectively performing automated distribution and billing, comprising, at least, the action of, or the means for, or at least one instruction for:

providing a negotiation forum between a delivery entity and a receiver entity, wherein the delivery entity corresponds to a developer of an application, wherein the receiver entity corresponds to a distributor of the application, wherein the negotiation forum allows for a virtual negotiation of billing-related metadata between the delivery entity and the receiver entity for the application, wherein at least a portion of the billing-related metadata relates to how to account for distribution of the application by the receiver entity to a wireless device operable on a network of the receiver entity.

Further, for example, with regard to independent claim 15, Hori does not disclose or suggest an automated distribution and billing system, comprising, at least:

an extranet accessible by multiple carriers and multiple developers, wherein each developer corresponds to a creator of an application, wherein each carrier corresponds to a distributor of applications, wherein the extranet defines a negotiation forum that enables a virtual negotiation of billing-related metadata between a respective carrier and a respective developer for a respective application, wherein at least a portion of the billing-related metadata relates to how to account for distribution of the respective application by the respective carrier to a wireless device operable on a network of the respective carrier;

Additionally, for example, with regard to claim 19, Hori does not disclose or suggest a system for distributing applications over a wireless network, comprising, at least:

a centralized processor operable to perform administrative functions associated with downloading an application to a wireless device, wherein the centralized processor comprises agreed-to billing-related metadata corresponding to the application, a developer of the application and a carrier accepted by both the carrier and the developer during a virtual negotiation, and wherein at least a portion of the agreed-to billing-related metadata relates to how to account for distribution of the application by the carrier to a respective wireless device operable on a network of the carrier;

In particular, Hori does not disclose or suggest a method, a system, or a computer-readable medium including a virtual negotiation between a developer of an application and a distributor of an application that results in billing-related metadata relating to how to account for distribution of the application. This subject matter is supported throughout the specification. *See, e.g.*, Specification at paragraphs 0037-0043.

The Applicants further traverse the Office's interpretation, as the teachings of Hori fail to support the Office's assertion. The Office has cited to several excerpts of Hori as supposedly disclosing the previously recited "negotiation forum." *See* Final Rejection mailed January 3, 2008, pages 2-3 (regarding claim 1), page 4 (regarding claim 7), pages 4-5. Specifically, the Office states "note abstract and see column 1, lines 40-67 and column 2 lines 1-67 and column 3 lines 20-38 and column 4 lines 10-24 and columns 17-18 lines 1-67." Contrary to the Office's opinion, however, none of the subject matter taught by Hori in the cited sections discloses or suggests a method, a system, or a computer-readable medium including a virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15 and 19.

In particular, the Abstract of Hori teaches:

one cellular phone accesses the delivery server and requests a delivery of content data such as music data, desired music data is delivered from the delivery server onto the one cellular phone,

which may also include a scheduled delivery. This teaching plainly relates to one cell phone ordering and scheduling delivery of music to another cell phone. As such, the Abstract of Hori is silent with respect to the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Further, Hori at column 1, lines 40-42 teaches:

it is a primary object of the present invention to provide an information delivery system capable of giving a present of music information to another person.

Additionally, at column 1, lines 43-46, Hori teaches:

An information delivery system according to the present invention, comprises: at least two portable communication terminals; and a delivery server for delivering data to the portable communication terminal.

The remainder of column 1, lines 40-67 of Hori elaborates on aspects of the portable communication terminals and the delivery server. Once again, this teaching of Hori does not even hint at the recited subject matter. As such, Hori at column 1, lines 40-67 is silent with respect to the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Additionally, Hori at column 2, lines 1-67 teaches further elaboration on aspects of the portable communication terminals and the delivery server. As such, Hori at column 2, lines 1-67 fails to teach or suggest the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Further, Hori at column 3, lines 20-38 teaches aspects of the above-noted delivery server. Once again, at column 3, lines 20-38, Hori fails to disclose or suggest the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Additionally, Hori at column 4, lines 10-24 teaches:

the delivery information receiving means further includes producing means to produce a coupon based on the delivery information, and delivery guide

transmitting means transmits a delivery guide including the coupon produced. In the portable communication terminal, delivery guide receiving means receives the delivery guide, and coupon transmitting means transmits the coupon included in the delivery guide to the delivery means. Accordingly, the delivery means receives the coupon from the portable communication terminal, and data delivery means delivers the data to the destination portable communication terminal based on the coupon received. That is, data can be delivered (presented) to a desired destination portable communication terminal.

This portion of Hori does not relate to any negotiated billing-related metadata between a developer of an application and a distributor of an application. Instead, this section deals with transmitting data between devices based on a coupon, which is completely silent with respect to the recited subject matter. Thus, at column 4, lines 10-24, Hori yet again fails to disclose or suggest the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Further, Hori at column 17, lines 1-37 relates to reproducing music on a phone. The Applicants fail to see any relevance of this citation to the recited subject matter and respectfully request the Office to point out with specificity such relevance.

Additionally, Hori at column 17, lines 38-51 relates to various memories, which once again appear to have nothing to do with the recited subject matter. Again, the Applicants fail to see any relevance of this citation to the recited subject matter and respectfully request the Office to point out with specificity such relevance.

Hori at column 17, lines 52-67 relates to mail being transmitted to one or both cellular phones 12 or 14, which yet again appears to have nothing to do with the recited subject matter. Thus, the Applicants fail to see any relevance of this citation to the recited subject matter and respectfully request the Office to point out with specificity such relevance.

At column 18, lines 1-27, and more specifically at lines 17-27, Hori teaches:

when the cellular phone 12 or the cellular phone 14 accesses the menu server 24 through the communication base station 16 and cellular phone network 18, it can acquire a list of music data, i.e. download information of music selection menu data and download information corresponding to desired ones of music data.

Here, download information refers to identification information of music data (content ID), coupons including a condition of purchasing a license by a user and information of connection (DAP-TEL) of music data download destination (download server 26) to an access point (DAP).

This portion of Hori does not relate to any negotiated billing-related metadata between a developer of an application and a distributor of an application. In contrast, this portion of Hori details accessing a menu server to get a list of available music, and the purchasing of music. Thus, at column 18, lines 1-27, Hori yet again fails to even hint at the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Additionally, at column 18, lines 28-67, Hori teaches a download server and a database for managing coupons and schedule information relating to downloading music data. This portion of Hori does not relate to any negotiated billing-related metadata between a developer of an application and a distributor of an application. Thus, at column 18, lines 28-67, Hori once again fails to disclose or suggest the virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19.

Therefore, as discussed in detail above, the Office's contention that Hori discloses or suggests the recited subject matter of claims 1, 7, 11, 15, and 19 is completely unsupported by the actual teachings of Hori. In contrast to the recited subject matter, Hori instead deals with the purchase of music, where one cellular phone can purchase and schedule delivery of music to another cellular phone. As such, the teachings of Hori are completely silent with respect to the

virtual negotiation between a developer of an application and a distributor of the application that results in billing-related metadata relating to how to account for distribution of the application, as recited by claims 1, 7, 11, 15, and 19. Thus, the Office has failed to make a *prima facie* rejection of claims 1, 7, 11, 15, and 19.

Likewise, with regard to independent claims 1, 7 and 11, Hori additionally fails to disclose or suggest a method, a system, or a computer-readable medium for respectively performing automated distribution and billing, comprising, at least, the action of, the means for, or at least one instruction for:

- receiving an acceptance of the proposed billing-related metadata by the delivery entity and the receiver entity, thereby defining agreed-to billing-related metadata corresponding to the application, the delivery entity and the receiver entity;
- configuring a catalog for the receiver entity including the correspondence between the application and the agreed-to billing-related metadata;
- receiving indication that a transaction involving the application and the receiver entity has occurred; and
- transmitting billing information to the receiver entity, wherein the billing information is based on the agreed-to billing-related metadata.

As Hori does not contemplate the recited virtual negotiation, as discussed in detail earlier, it follows that Hori cannot and does not disclose or suggest the action of, the means for, or at least one instruction for receiving acceptance of the agreed-to billing-related metadata corresponding to the application, the delivery entity and the receiver entity, configuring a catalog with this information, receiving indication of a transaction involving the application, and transmitting billing information based on the agreed-to billing-related metadata.

For similar reasons, Hori does not disclose or suggest additional recited aspects of independent claims 15 and 19. In particular, with regard to claim 15, Hori does not disclose or suggest a system including:

- a server having a central repository that stores agreed-to billing-related metadata corresponding to the respective application, the respective carrier and the respective developer, wherein the agreed-to billing-related metadata

comprises respective billing-related metadata accepted by both the respective carrier and the respective developer during the virtual negotiation; and

a transaction server operable to receive transaction data corresponding to a downloading of the respective application from the respective carrier, and, using the corresponding agreed-to billing-related metadata, operable to determine billing information associated with the downloading of the application

Similarly, with regard to claim 19, Hori does not disclose or suggest a system including:

a transaction server connected to the centralized processor and the local processor and operable to receive the agreed-to billing-related metadata from the centralized processor, receive the transaction data from the local processor, and process the agreed-to billing-related metadata and the transaction data for billing.

Thus, for at least these additional reasons, Hori fails to disclose or suggest the recited subject matter of claims 1, 7, 11, 15, and 19.

Claims 2-6, 8-10, 12-14, and 16-18 depend from a respective one of independent claims 1, 7, 11, 15 and 19, and thus are allowable for at least the same reasons discussed previously. Further, each of dependent claims 2-6, 8-10, 12-14, and 16-18 separately recites a combination of subject matter not disclosed or suggested by Hori.

Therefore, based on the above remarks, the Applicants respectfully request that the Office withdraw the rejection of claims 1-19 as being anticipated by or as being obvious over Hori.

New Claims

The Applicants have added new claims 20-32 to recite subject matter to which they are entitled. These new claims are fully supported throughout the specification. *See, e.g.*, Specification at page 6, paragraph 0031, at page 5, paragraph 0024, at page 7, and at paragraph 0033.

Further, new claims 20-32 are allowable over Hori, as Hori fails to disclose or suggest the recited subject matter of these claims. In one aspect, claims 20-32 depend from a respective

one of independent claims 1, 7, 11 and 15, and thus are allowable for at least the same reasons. Further, each of dependent claims 20-32 separately recites a combination of subject matter not disclosed or suggested by Hori. For example, Hori does not disclose or suggest the recited payment to the developer of an application, as recited by claims 20, 23, 26, and 29. Additionally, for example, Hori does not disclose or suggest the usage-related metadata as recited by claim 22, 25, 28, and 31.

Thus, the Applicants respectfully submit that new claims 20-32 are allowable.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated March 3, 2008

By: /Fariba Yadegar-Bandari/
Fariba Yadegar-Bandari
Reg. No. 53,805
(858) 651-0397

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502